

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

BRANDY MORRIS, on behalf of  
herself and others similarly situated,

Plaintiff,

vs.

WALMART, INC., previously known  
as Wal-Mart Stores, Inc.,

Defendant.

CV 22-16-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations, filed on January 23, 2023. (Doc. 31). Judge Cavan recommends this Court grant in part and deny in part Defendant Walmart, Inc.'s Motion to Dismiss (Doc. 14).

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of the Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews the findings and recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After


reviewing the Findings and Recommendations, this Court does not find Judge Cavan committed clear error.

IT IS ORDERED that United States Magistrate Judge Timothy Cavan's Findings and Recommendations (Doc. 31) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Walmart's Motion to Dismiss be GRANTED in part and DENIED in part, as follows:

1. Denied with respect to Morris's breach of contract claim in Count I;
2. Denied as to Morris's contract claim, but granted as to Morris's tort claim, for breach of the covenant of good faith and fair dealing in Count II;
3. Granted as to Morris's unjust enrichment claim in Count III; and
4. Dismissal of the tort claim in Count II and the entirety of Count III is granted with leave to amend.

DATED this 9<sup>th</sup> day of February, 2023.

  
SUSAN P. WATTERS  
United States District Judge